

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:07CV346

DANIEL H. BRACKETT,)	
)	
Plaintiff,)	
)	
Vs.)	<u>ORDER OF DISMISSAL</u>
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
_____)	

THIS MATTER is before the Court on the Defendant's motion to dismiss. Although notified by Order filed December 11, 2007, of his burden in responding to a motion to dismiss, the Plaintiff has failed to file any response or objection to the Defendant's motion.¹

Plaintiff's complaint alleges that a postal employee refused to permit Plaintiff to post his campaign posters on the local post office bulletin board.

Complaint, *attached to Notice of Removal*, filed October 26, 2007.

Plaintiff seeks an unspecified amount of damages for the alleged tortious

¹ The Court notes that the docket record indicates the *Roseboro* Order of December 11, 2007, mailed to the Plaintiff was returned to the Clerk as "attempted not known, unable to forward" by the Postal Service.

conduct. *Id.* Defendant argues that the United States and its agencies may not be sued except as permitted by the Federal Tort Claims Act, and then only after the claimant has presented his claim to the appropriate federal agency. **See 28 U.S.C. § 2675; Defendant's Motion to Dismiss and Memorandum, filed October 30, 2007, at 1.** Plaintiff has not responded to the Defendant's motion even after the Court issued a *Roseboro* Order on December 11, 2007, advising him of his burden in responding to such a motion. **See, Order, filed December 11, 2007.** In fact, it appears Plaintiff has moved from the address provided on his complaint because the Court's Orders have been returned by the Postal Service as undeliverable and Plaintiff has failed to provide the Court with a new address.

For the reasons stated in the Defendant's motion, the Court finds that the relief requested should be allowed.

IT IS, THEREFORE, ORDERED that Defendant's motion to dismiss is **ALLOWED**, and this action is hereby **DISMISSED WITH PREJUDICE**.

Signed: January 8, 2008

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

